~~TOP SECRET//COMINT//NOFORN~~
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

23 February 2009

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U//~~FOUO~~) Report to the Intelligence Oversight Board on NSA Activities - INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that any intelligence activities of the National Security Agency during the quarter ending 31 December 2008 were unlawful or contrary to Executive Order or Presidential Directive and thus should have been reported pursuant to Section 1.7.(d) of Executive Order 12333.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

GEORGE ELLARD
Inspector General

VITO T. POTENZA
General Counsel

(U//~~FOUO~~) I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

KEITH B. ALEXANDER
Lieutenant General, U. S. Army
Director, NSA/Chief, CSS

Encl:
Quarterly Report

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Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20320108

Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

1. (U//~~FOUO~~) Intelligence, counterintelligence, and intelligence-related activities that violate law, regulation, or policy substantiated during the quarter, as well as actions taken as a result of the violations.

(U) **Intelligence Activities**

~~(TS//SI// REL TO USA, FVEY)~~ **Unintentional collection against United States persons.** This quarter, there were [ ] instances in which Signals Intelligence (SIGINT) analysts inadvertently targeted or collected communications to, from, or about U. S. persons while pursuing foreign intelligence tasking. All intercepts and reports have been deleted or destroyed as required by United States SIGINT Directive (USSID) SP0018.

(b)(1)
(b)(3)-P.L. 86-36

(U) Unauthorized Targeting

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ An NSA analyst wrongly tasked a U.S. telephone number for collection on [ ] He assumed that the selector was foreign [ ] foreign intelligence target. This mistake was found during a review of tasked selectors on [ ] The selector was detasked [ ] and the analyst was paired with a senior analyst for additional training. No collection resulted from this violation.

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ [ ] an NSA analyst improperly searched for information on [ ] NSA analysts to acquire translation metrics for their performance appraisals. The violation was found by a database auditor [ ] who provided additional training to the analyst. The queries returned [ ] results, which were purged from the NSA database [ ]

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ [ ] an NSA [ ] mistakenly included the e-mail address of [ ] in a query list of targeted addresses. The analyst noticed his mistake the same day, and the query was terminated with no results [ ]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(TS//SI//REL TO USA, FVEY)~~ On two occasions, collection occurred while valid foreign targets were in the United States. In the first instance, detasking was requested on [ ] [ ] but the selectors were not removed [ ] [ ] All related collection was purged from NSA databases. The second instance occurred [ ] Selectors were deactivated [ ] [ ] but collection occurred before [ ] detasked the selectors. The intercepts were purged from an NSA database as they were identified beginning from [ ] No reporting resulted from either violation.

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ [ ] NSA analysts learned of a [ ] collection violation. Analysts believe that [ ] records occurred [ ]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 39480914

[redacted] Unfortunately, all related collection was purged from NSA databases in 2004. The details of the violation are still being researched. The NSA/CSS Office of the Inspector General (OIG) will track this action and report the results.

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(b)(3)-P.L. 86-36

~~(TS//SI//REL)~~ On [redacted] an NSA analyst learned that [redacted] foreign targets were [redacted] the United States [redacted] targeted e-mail selectors were detasked, [redacted] and collection [redacted] was purged from an NSA database. When confirming the detasking [redacted] the analyst found that the selectors had not been removed from [redacted] The cause of the problem was software-related. The selectors were removed [redacted] No collection resulted because [redacted] had not been conducted from [redacted]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(U) Database Queries

(b)(1)
(b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ On [redacted] occasions, NSA analysts constructed poor database queries. In [redacted] of the [redacted] occasions, collection resulted from the overly broad or incomplete queries. All resulting collection was deleted. The remaining [redacted] incidents did not result in collection. No reports were issued.

~~(TS//SI//REL TO USA, FVEY)~~ Additionally, on [redacted] occasions, NSA analysts failed to verify that targets were located outside the United States before conducting database queries. In [redacted] of the [redacted] instances, the oversights resulted in collection. [redacted]

[redacted] All queries were terminated and when collection occurred, the data was deleted. No reporting occurred.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(U) Detasking Delays

~~(TS//SI//NF)~~ A valid foreign target traveled to the United States and [redacted] before the target's selector was detasked. A detasking request was submitted on [redacted] the United States. The detasking did not occur until [redacted] after the target returned overseas. This violation was caused by an inefficient process for detasking. To lessen the risk of future violations of this type, analysts are now required to [redacted] Collection associated with this violation was purged from NSA databases [redacted]

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(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36

(U) Destruction Delays

~~(S//SI//REL TO USA, FVEY)~~ Human error caused a [ ]-day delay in deleting [ ] from an NSA database. [ ] an NSA analyst submitted a purge request with the intent of deleting collection from [ ] He mistakenly believed that the request would effect purging for [ ] was deleted from the [ ] when the mistake was found.

~~(S//SI//REL TO USA, FVEY)~~ **Unintentional dissemination of U.S. identities.** There were [ ] instances in which SIGINT analysts disseminated communications to, from, or about U.S. persons while pursuing foreign intelligence tasking this quarter. All data have been deleted or destroyed as required by USSID SP0018. In [ ] of the [ ] instances, SIGINT products were cancelled because they contained the identities of U.S. persons, organizations, or entities. The reports were either not reissued or were reissued with proper minimization.

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(b)(3)-P.L. 86-36
(b)(3)-18 USC 798

~~(S//SI//NF)~~ [ ] an NSA analyst included information from SIGINT about a [ ] to the NSA [ ] although, within NSA, the [ ] is not part of the SIGINT production chain. Additionally, the same unminimized and unevaluated traffic was forwarded to [ ] assigned to NSA. The [ ] was not authorized to receive unminimized and unevaluated SIGINT. In both instances, the disseminated data was destroyed [ ]

(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ Before obtaining U.S. identity release [ ] an NSA analyst e-mailed a briefing that included identities of a U.S. [ ] and U.S. [ ] to the [ ] later that month. [ ] when the analyst recognized the mistake, she directed destruction of the brief by the [ ] as she applied for an identity release [ ] The [ ] had no record of the e-mailed briefing to destroy.

(b)(1)
(b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ [ ] the name of a U.S. person was included in [ ] e-mail tips to elements inside and outside the SIGINT Production Chain. The violation was recognized the same day. The e-mails were recalled and a destruction notification was forwarded to all addressees.

~~(TS//SI//REL TO USA, FVEY)~~ [ ] an NSA analyst included [ ] U.S. person [ ] The NSA analyst forwarded [ ] [ ] the analyst noticed that he had not minimized the U.S. identifiers. He directed and confirmed the destruction of the charts by [ ]

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(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(U) **The Foreign Intelligence Surveillance Act (FISA)**

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(U) **Business Records Order**

~~(TS//SI//REL TO USA, FVEY)~~ On 28 October 2008, an NSA analyst accessed Business Record FISA (BRFISA) data for [redacted] telephone selectors without authorization. The violation occurred because the analyst used an old version of the navigation software, [redacted] The analyst updated the navigation software on 9 December 2008, and other analysts were reminded to update their software. No data was retained, and no reports were issued.

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ On 31 October 2008, [redacted] passed a mistyped phone number to an NSA analyst [redacted] The one digit change resulted in the targeting of an [redacted] number in Business Records FISA data from 3 November 2008 until 5 January 2009. All related call chaining results [redacted] were purged on 5 January 2009, and [redacted] on 6 January 2009.

(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ On 15 December 2008, an NSA analyst improperly accessed BRFISA data for a U.S. telephone number. Although the number was associated with a foreign target, it had not been approved for call chaining in the BRFISA data. The analyst did not know that approval must be sought for BRFISA [redacted] call chaining. No data was retained, and no reports were issued.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(U//~~FOUO~~) Although the following violation occurred during the January through March 2009 reporting timeframe, the incident is significant enough to warrant early reporting.

> ~~(TS//SI//NF)~~ On 15 January 2009, the Department of Justice reported to the FISA Court (FISC) that NSA had been using an "alert list" to compare incoming BRFISA metadata against phone numbers associated with counterterrorism targets that NSA had tasked for SIGINT collection. Although the Agency had reported to the Court that the alert list consisted of numbers for which NSA had determined that a reasonable articulable suspicion (RAS) existed that the numbers were related to a terrorist organization associated with [redacted] the vast majority of selectors on the alert list had not been subjected to a RAS determination. The circumstances surrounding this incident are still under research. The NSA/CSS OIG will track this action and report the results.

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(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(U) **Pen/Trap Order**

(U) Nothing to report.

(U) **The Protect America Act (PAA)**

(U) Nothing to report.

(b)(1)
(b)(3)-P.L. 86-36

(U) The FISA Amendments Act

~~(S//SI//NF)~~ A target selector was not detasked during a target's [redacted] visit to the United States. [redacted] an NSA analyst requested detasking of the target's e-mail selector on [redacted]. The selector was removed [redacted] but the analyst [redacted] detasking process inadvertently omitted the request as he processed [redacted]. Resulting collection was purged from the NSA databases. No reporting occurred.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(TS//SI//REL TO USA, FVEY)~~ During a tasking record review [redacted] NSA analysts learned that a targeted selector had been tasked under the wrong authority. This due diligence found that the analyst mistakenly selected FISA Amendments Act (FAA) [redacted] Certification instead of the FAA [redacted] Certification. No collection occurred between [redacted] when the selectors were tasked and [redacted] when the selector was detasked, and no reports were issued.

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ A target with U.S. and [redacted] citizenship was incorrectly tasked under the FAA [redacted] Certification [redacted] in violation of FAA section 702. A U.S. person may not be tasked pursuant to section 702 of the Act. The NSA analyst did not notice the target's dual citizenship when the e-mail selector was tasked. Resulting collection was purged from [redacted] NSA databases [redacted] A software processing error prevented the deletion of the data [redacted]

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ [redacted] an FAA-authorized target was active on an e-mail address [redacted] Collection was purged from [redacted] NSA databases on [redacted] but a software processing error prevented the deletion of the data from [redacted] The problem was isolated [redacted] and the data was purged from the [redacted] To ensure no other purging requests were affected, the system administrators re-processed all purging requests dating back to [redacted]

~~(TS//SI//NF)~~ [redacted] an FAA-tasked e-mail account selector associated with [redacted] the United States. The selector was not detasked until [redacted] because of a database software problem, which was corrected on [redacted] The target selector to be detasked was in the [redacted] Related collection was purged from NSA databases [redacted] No reporting occurred.

(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ NSA analysts learned [redacted] that a target selector was not [redacted] an NSA analyst requested detasking of the target's e-mail selector on [redacted] The analyst submitted the detasking request, but failed to notify the detasking office [redacted] and the need to bypass the standard [redacted] detasking process. Resulting collection was purged from the NSA databases on [redacted] No reporting occurred.

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(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ [redacted], an NSA analyst learned that an e-mail selector tasked for collection under the FAA [redacted] Certificate did not meet the FAA tasking standards. The selector was detasked [redacted] As a result of this incident, the tasking process has been changed to reduce the risk of future mistakes. Applicable selectors are now [redacted] No collection or reporting occurred.

(b)(1)
(b)(3)-P.L. 86-36

~~(S//SI//NF)~~ On [redacted] an NSA analyst detasked a telephone selector of a target active in the United States, but failed to [redacted] The process failure was corrected on [redacted] when the oversight was identified. Collection was purged from NSA databases on [redacted]

~~(TS//SI//REL TO USA, FVEY)~~ Human error resulted in collection of a target's communications while he was in the United States from [redacted] The second error occurred when a [redacted] analyst [redacted] noted the target as outside the United States. [redacted] All related collection was purged from NSA databases [redacted]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ [redacted]

~~(TS//SI//REL TO USA, FVEY)~~ Human error caused a [redacted] day detasking delay, which resulted in collection while the target selector was active in the United States. The request to terminate the FAA-authorized collection was submitted on [redacted] but the selector was not detasked until [redacted] The analyst left on [redacted] and did not return until [redacted] at which time the selector was detasked, and the resulting collection was purged from a NSA database on [redacted] No reporting occurred on the unauthorized collection.

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(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(U) **Other**

(b)(3)-P.L. 86-36

(U) Unintentional Dissemination

~~(S//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst e-mailed FISA-collected data to [redacted] who was not authorized to receive the FISA data. U.S. person information was not included in the e-mail. The analyst, who misunderstood information sharing policy, confirmed the destruction of the data by the [redacted]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ Human error resulted in the targeting of [redacted] e-mail selectors from [redacted] Although the selectors were removed from [redacted] NSA analysts did not annotate that the selectors were terminated [redacted] Consequently, the [redacted] selectors remained active [redacted] All collection related to the targets was destroyed, and no reports were issued.

~~(TS//SI//NF)~~ Another human error resulted in the targeting of [redacted] e-mail selectors from [redacted] Although the selectors were removed from [redacted] NSA analysts did not annotate that the selectors were terminated [redacted] Consequently, the [redacted] selectors remained active [redacted] All collection related to the targets was destroyed, and no reports were issued.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(U) Computer Network Exploitation

~~(TS//SI//REL TO USA, FVEY)~~ [redacted]

~~(TS//SI//NF)~~ [redacted]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ [redacted]

~~(TS//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst learned that a targeted e-mail address had been detasked on [redacted] because the target was in the United States. [redacted]

(U) **Counterintelligence Activities**

(b)(1)
(b)(3)-P.L. 86-36

(U) Nothing to report.

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(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(U) Intelligence-related Activities

~~(S//SI//NF)~~ To reduce the risk of unauthorized telephony collection and prevent violations, NSA/CSS instituted a process to give analysts greater and faster insight into a target's location.

When collection occurred, it was purged from NSA databases.

(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~

NSA/CSS analysts found that e-mail selectors this quarter. No collection occurred.

~~(C//REL TO USA, FVEY)~~ Although not violations of E.O. 12333 and related directives, NSA/CSS reports instances in which database access was not terminated when access was no longer required. Once identified, accesses were revoked. In another instance, a work study employee was issued a database account in error. Accounts are only to be granted to analysts on a need-to-know basis, which was not the case with the high school work study employee. The student had not received training, and it was not activated before the account was terminated. The Branch Chief who authorized the account was counseled on the importance of understanding work roles before submitting individuals for database accounts.

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(b)(3)-50 USC 3024(i)

~~(TS//SI//REL TO USA, FVEY)~~

was inappropriately forwarded to NSA analysts failed to follow NSA policy and guidance for dissemination of SIGINT technical information and sent the data to the non-SIGINT analysts. The recipients destroyed the data

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(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~

analyst wrongfully shared his NSA Network (NSANet) account password with another SIGINT analyst assigned to The analyst mistakenly believed he could share his NSANet for training purposes. The analyst was relieved of his duties and transferred to the

~~(TS//SI//REL TO USA, FVEY)~~ the Officer-in-Charge (OIC) of a forwarded unminimized and unevaluated SIGINT to all-source analysts outside the SIGINT production chain. The data did not contain U.S. person information. An analyst at Fort Gordon recognized the mistake. The e-mail was recalled, and destruction of the data was confirmed by telephone. The OIC completed refresher training on SIGINT dissemination.

~~(TS//SI//REL TO USA, FVEY)~~

learned that a analyst sought and

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(b)(3)-50 USC 3024(i)

(b)(3)-P.L. 86-36

received NSA [redacted] database access through his former NSA/CSS organization. The [redacted] had determined that [redacted] database access was not needed in the analyst's job. After three unsuccessful attempts to gain database access through the normal request process, the analyst contacted his former duty station and was sponsored for access on [redacted] database access was terminated [redacted]. Additionally, from [redacted] found [redacted] (b)(1) (b)(3)-P.L. 86-36 [redacted] analyst and [redacted] analysts sponsored for [redacted] database access by an organization not authorized to sponsor access within the [redacted] area of operational responsibility. Database access for the [redacted] analysts was terminated pending proper sponsorship.

~~(TS//SI//REL TO USA, FVEY)~~ Last quarter NSA reported a [redacted] problem with the [redacted] malfunctioned, and the [redacted] causing the retention of U.S. person [redacted] information. [redacted] odification was added to extend [redacted]. The NSA Office of General Counsel has provided retention guidance to the affected organizations. (b)(1) (b)(3)-P.L. 86-36 (b)(3)-50 USC 3024(i)

2. (U//~~FOUO~~) NSA/CSS OIG Intelligence Oversight Inspections, Investigations, and Special Studies.

(U//~~FOUO~~) During this quarter, the OIG reviewed various intelligence activities of the NSA/CSS to determine whether they had been conducted in accordance with applicable statutes, Executive Orders, Attorney General procedures, and Department of Defense and internal directives. With few exceptions, the problems uncovered were routine and showed that operating elements understand the restrictions on NSA/CSS activities.

(U//~~FOUO~~) [redacted] (b)(3)-P.L. 86-36

(U//~~FOUO~~) A joint inspection found that the [redacted] would benefit from documented and communicated processes. The focus of the [redacted] intelligence oversight program has been E.O. 12333 training, but not local incident handling procedures. Intelligence oversight training for newcomers is at an 86 percent compliance rate, and 99 percent for annual E.O. 12333 refresher training. Although collectors, analysts, and supervisors are aware of the restrictions on the collection, analysis, and dissemination of U.S. person information, local incident reporting standards, and internal controls to track newcomer training and the use of sensitive NSA databases are needed. The OIG will track corrective action through completion.

(U//~~FOUO~~) **NSA Office of** [redacted] (b)(3)-P.L. 86-36

(U//~~FOUO~~) An inspection found that the intelligence oversight within NSA's Office of [redacted] is appropriately managed and compliant with standing regulations.

(U//~~FOUO~~) **Alleged Unauthorized Disclosure of Classified Information and Misuse of the United States SIGINT Service (USSS).**

(b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ The NSA/CSS OIG reported alleged unauthorized disclosure of classified information and misuse of the USSS last quarter. [redacted] a Navy Cryptologist met with an uncleared Navy Family Readiness social worker and disclosed that he had targeted his ex-wife and other family members through his job. An OIG inquiry found no evidence to support the sailor's claim.

(U) **Congressional, IOB, and DNI Notifications.**

(U) Nothing to report.

3. (U) Substantive Changes to the NSA/CSS Intelligence Oversight Program.

(U) Nothing to report.

4. (U) Changes to NSA/CSS published directives or policies concerning intelligence, counterintelligence, or intelligence-related activities and the reason for the changes.

(U) Nothing to report.

5. (U) Procedures governing the activities of Department of Defense (DoD) intelligence components that affect U.S. persons (DoD Directive 5240.1-R, Procedure 15) Inquiries or Matters Related to Intelligence Oversight Programs.

(U) Nothing to report.